

Overview of Approach to BDCP and Proposed Revisions

The Draft BDCP and Draft EIR/EIS were released together for public review on December 13, 2013. Through an extensive public review period, the Lead Agencies received a total of 18,532 separate comments. Based largely on these comments, the Lead Agencies have added an alternative to address numerous concerns related to the feasibility of the habitat conservation plan, to minimize certain environmental effects associated with a broad scale habitat conservation plan, and to incorporate an alternative approach to compliance with the federal Endangered Species Act of 1973 (ESA) and California Endangered Species Act (CESA). Based on adding an alternative, as well as revising elements of the existing alternatives and refinement of the resource area analyses, the Lead Agencies are proposing to issue a Partially Recirculated Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS).

New Alternative 4A. The new alternative to be included in the RDEIR/SDEIS proposes to construct and operate north Delta intakes and associated tunnel facilities identical to that proposed under Alternative 4. However, rather than proposing implementation of a habitat conservation plan under a 50 year permit through Section 10 of the ESA and the California Natural Community Conservation Planning Act (NCCPA), Alternative 4A is proposed to achieve ESA compliance through Section 7 of the ESA and achieve CESA compliance through Section 2081(b) of the California Fish and Game Code. Alternative 4A is expected to be identified in the RDEIR/SDEIS as the Preferred Alternative for the purposes of CEQA and NEPA.

Because of the revision in the proposed project, the California Department of Water Resources (DWR) and certain State and Federal water contractors will be withdrawing their applications to NMFS and USFWS for permits under Section 10(a)(1)(B) of the ESA and withdrawing the notice to the California Department of Fish and Wildlife (DFW) for coverage under the NCCPA. To achieve compliance with the federal ESA, the U.S. Bureau of Reclamation (Reclamation), in cooperation with DWR, is preparing to initiate consultation with USFWS and NMFS on Alternative 4A under Section 7. Reclamation is preparing a Biological Assessment to support the consultation on federally listed species. To achieve compliance with the CESA, DWR is simultaneously coordinating with DFW to prepare an application for a Section 2081(b) incidental take permit for state-listed species.

Alternative 4A includes the construction of three north Delta intake facilities as well as the tunnels for water conveyance, the operation of those facilities in concert with the existing SWP facilities and operations, the maintenance of the newly constructed facilities, and the environmental measures and adaptive management that would be used to avoid and minimize effects. The only elements of the conservation measures, previously proposed in the habitat conservation plan as part of Alternative 4, that would remain are proposed in Alternative 4A for mitigation to offset the impacts of the construction and operation of the SWP facilities.

NEPA and CEQA Compliance. DWR remains the Lead Agency for purposes of complying with CEQA. Reclamation will be the sole Lead Agency for purposes of complying with NEPA. Reclamation's action with any of the alternatives, including the new Alternative 4A, is related to operation of the Central Valley Project in coordination with the SWP new North Delta Intake and associated facilities. Because the Section 10 permit applications will be withdrawn, NMFS and the USFWS are no longer considered Lead Agencies for preparation of the EIS for the proposed project.

Where appropriate, the RDEIR/SDEIS will reference the Draft BDCP document. Any new information

developed for the BDCP since the December 2013 public draft that is needed to adequately disclose environmental effects will be included in this RDEIR/SDEIS. However, because of the change in the proposed project, the entire BDCP and accompanying Implementing Agreement has not been further revised nor will it be re-released as part of the RDEIR/SDEIS. The EIR/EIS for the proposed project will continue to analyze the 15 alternatives presented in the Draft EIR/EIS. The RDEIR/SDEIS will include modifications to these alternatives, where relevant, and revisions to the resource analyses associated with the impacts of these alternatives.

The RDEIR/SDEIS will describe and disclose all relevant environmental effects of implementing Alternative 4A for the purposes of CEQA and NEPA. Impact analyses for Alternative 4A will be compared against the Existing Conditions and No Action Alternative baselines within a shorter timeframe (described as the “Early Long Term”) to accurately describe and analyze environmental effects. Impacts for which substantive differences compared to Alternative 4 will be identified and presented in full impact format with CEQA and NEPA conclusions and proposed mitigation measures, where feasible and required to reduce a significant impact. For impacts under Alternative 4A that are identical to those under Alternative 4, such as conveyance facility construction impacts for certain resource topics, no additional analysis will be presented under Alternative 4A, but references to the Alternative 4 analysis are provided.

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